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Notice of Allowability

Application No.

10/775,008

Examiner

Huy K. Mai

Applicant(s)

GOLDMAN ET AL.

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the patent application filed Feb. 9, 2004 and the telephone interview on Sept. 24, 2004.
2. ☒ The allowed claim(s) is/are 1-11.
3. ☒ The drawings filed on 09 February 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 5/27/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Thomas M. Freiburger on Sept. 23, 2004.

The application has been amended as follows:

The word "essentially" (claim 1, line 2) has been deleted.

The word "essentially" (claim 1, line 5) has been deleted.

The phrase "temple/shuttle" (claim 9, line 3) has been changed to -shuttle--.

The phrase "temple/shuttle" (claim 9, line 4) has been changed to -temple--.

The phrase "temple/shuttle" (claim 9, line 6) has been changed to -temple--.

The phrase "temple/shuttle" (claim 9, line 8) has been changed to -temple--.

The phrase "temple/shuttle" (claim 9, line 9) has been changed to -temple--.

The phrase "temple/shuttle" (claim 9, line 11) has been changed to -temple--.

The phrase "temple/shuttle" (claim 9, line 13) has been changed to -temple--.

The phrase "temple/shuttle" (claim 9, line 15) has been changed to -temple--.

In the specification, the phrase "the shuttle 20a" (page 12, line 13) has been changed to -
the shuttle 26a--.

Art Unit: 2873

REMARKS: Per discussion the word “essentially”, both the applicant and the examiner agreed that the word “essentially” in claim 1 is unnecessary because the term “pivotally connected” would broadly cover connection that includes more complex motion.

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: The prior art fails to teach a combination of all the limitations as claimed in the independent claim 1, wherein the claimed invention comprising a clip lever pivotally connected to the hinge fitting at one side of the lens holding frame and positioned to lie closely adjacent to the temple at said one side when the temple is fully opened and also when the temple is fully closed, and linkage means responsive to pivotal movement of the temple between the opened position for wearing of the eyeglasses and the closed position folded generally adjacent to the lens holding frame, for holding the clip lever closely adjacent to and substantially against the inner side of the temple in both the opened and closed positions of the temple, and for holding clip lever spaced angularly away from the temple, sufficiently to engage an edge of clothing or other material between the temple and the clip lever, in a position of the temple between opened and closed, whereby, when the temple is closed an edge of clothing or other material can be securely engaged between the clip lever and the temple to firmly hold the eyeglasses in place on the clothing or other material, as claimed. The prior art does not disclose or fairly suggest, by themselves or in combining with any other reference, to meet a combination of all the limitations as claimed in claim 1. Therefore claims 1-11 could be allowable over the prior art of record.

Art Unit: 2873

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy K. Mai whose telephone number is (571) 272-2334. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.

HKM/
September 24, 2004



Huy Mai
Primary Examiner